

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Pacific Bell Telephone Company,
d/b/a SBC California for Generic Proceeding to
Implement Changes in Federal Unbundling Rules
Under Sections 251 and 252 of the
Telecommunications Act of 1996.

Application 05-07-024
(Filed July 28, 2005)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING MOTION TO STRIKE AND
ESTABLISHING PROCEDURAL SCHEDULE**

This ruling will confirm the decisions made during three conference calls I held with the parties to this proceeding on September 16 and 23, 2005, and on October 3, 2005.

Joint Competitive Local Exchange Carriers' (CLECs') Motion to Strike

On September 13, 2005, Pacific Bell Telephone Company d/b/a SBC California (SBC) filed a notice of errata to its proposed Triennial Review Order/Triennial Review Remand Order (TRO/TRRO). The errata deleted certain items from the list of commingled arrangements.

The Joint CLECs filed a motion to strike on September 16, 2005, saying that SBC's proposal denies CLECs in California the same commingling arrangements SBC very recently agreed to provide in Ohio. The Joint CLECs also stated that SBC's last-minute revision just two days before the Joint CLECs were to respond to SBC's proposal did not provide adequate time for the Joint CLECs to assess SBC's proposed substantive changes. SBC responded to the Joint CLECs' motion to strike on September 20, 2005, saying that the parties can now debate and brief

the merits of the language at issue in their negotiations and their briefs. SBC states that it is not contractually bound by the language, as no CLEC had signed the contract language before SBC filed the errata.

I reiterate the outcome of the conference call in which I denied the Joint CLECs' motion to strike, telling parties that they can argue the issue in their briefs.

Procedural Schedule for Proceeding

The following schedule was adopted during the conference call on September 16, 2005:

Negotiations/Discussions	September 16-30, 2005
Disputed Point List (DPL)	October 11, 2005
Opening Briefs	October 28, 2005
Reply Briefs	November 14, 2005

A separate procedural schedule was adopted for the Batch Hot Cut portion of the proceeding:

SBC files proposed language	October 14, 2005
Negotiations/Discussions	October 14-31, 2005
DPL filed	November 9, 2005
Opening Brief	November 23, 2005
Reply Brief	December 2, 2005

I reminded parties that Ordering Paragraph 5 in Decision 05-07-043¹ allows parties to use the record established in our FCC Triennial Review Nine-Month

¹ Order Closing the Triennial Review Nine-Month Phase, Rulemaking 95-04-043, Investigation 95-04-044, FCC Triennial Review Nine-Month Phase, July 21, 2005.

Phase proceeding. Parties are to supply me with two copies of any documents from that proceeding that they want taken into account in the batch hot cut portion of this proceeding.

I have determined that the following issue will be excluded from this proceeding: Commission review of SBC's non-impaired wire center designation. I determined that this was outside the scope of this proceeding. The Commission set a very narrow scope for this proceeding, namely it was to address disputes over the terms of implementing change-of-law provisions of the TRO and TRRO.

I determined that hearings would be necessary to address two inter-related issues: the rate for Routine Network Modification (RNM) and the RNM parity issue. We will examine what RNMs SBC performs for its retail customers and the charges (if any) retail customers pay for particular modifications. We will also address the factual issue of what costs are recovered in SBC's Unbundled Network Element (UNE) recurring and nonrecurring rates. Parties agree that discovery should begin before testimony is filed, and that a 7-day time limit should apply to responses.

The following schedule was developed:

Concurrent Opening testimony	October 21, 2005
Concurrent Reply testimony	November 18, 2005
Arbitration hearings	November 28-30, December 1-2, 2005

The hearing schedule each day will be 9-12 and 1:30-3:30. I cautioned parties to avoid duplicative testimony, or testimony that is not on point. No friendly cross-examination will be allowed.

During the conference call on October 3, 2005, we had a lengthy discussion about two issues that MCI wanted to transfer from its bilateral arbitration with SBC into this proceeding. I ruled that no additional language or issues would be

added to this consolidated change-of-law proceeding from the SBC/MCI arbitration. To the extent that the issues were already included in the September 26, 2005 "Response of Joint CLECs to Application," they would be addressed in the consolidated arbitration. The same holds true for SBC. SBC will not be permitted to expand the language it proposed in its original TRO/TRRO amendment to address issues withdrawn from the SBC/MCI arbitration.

IT IS SO RULED.

Dated October 6, 2005, at San Francisco, California.

/s/ KAREN JONES
Karen Jones
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion to Strike and Establishing Procedural Schedule on all parties of record in this proceeding or their attorneys of record.

Dated October 6, 2005, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.